

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

Case No: 14-20417

v.

Honorable Victoria A. Roberts

D-4 JOHN FAYAD
D-8 JOSEPH MELCHER

Defendants.

ORDER REGARDING OUTSTANDING MOTIONS AND OBJECTIONS

Defendants Thomas Mackey, Kenneth Green, Alan Clemons, John Fayad, Douglas Demaria, Urban Hotts, Theodore Lasater, Joseph Melcher, and David Milazzo were indicted on charges related to their alleged participation in an illegal gambling operation. All Defendants pled guilty, except for Fayad and Melcher; they intend to proceed to trial.

The Court now resolves the three pending matters involving these two defendants, all of which were referred to Magistrate Judge David R. Grand for disposition:

- 1) Defendant Melcher's Motion to Suppress Statements and Admissions for the Reason he was Not Advised of His *Miranda* Rights (Dkt. No. 141);
- 2) Defendant Kenneth Green's Motion to Suppress Electronic Surveillance Because of the Failure to Establish an Adequate Showing of "Necessity" as Mandated by the Statute (Dkt. No. 106), joined by Defendants Fayad (Dkt. No. 176) and Melcher (Dkt. Nos. 111, 166); and

- 3) Defendant John Fayad's Objections to Magistrate's Order (Dkt. No. 162) Denying Various Motions by Defendant John Fayad (Dkt. No. 169), joined by Defendant Melcher (Dkt. No. 143).

Magistrate Judge Grand issued a Report and Recommendation on each of the first two motions, which were fully briefed, recommending the Court deny Defendants' motions. Defendants filed objections and the United States responded.

The Court reviews *de novo* objections to any part of a Magistrate Judge's Report and Recommendation. Fed. R. Civ. P. 72(b). After considering the entire record, the Court **ACCEPTS** the Report and Recommendation (Dkt. No. 159) for Defendant Melcher's motion to suppress statements allegedly obtained in violation of his *Miranda* rights; Defendant Melcher's Motion (Dkt. No. 141) is **DENIED**. The Court also **ACCEPTS** the Report and Recommendation (Dkt. No. 161) for Defendant Green's motion to suppress evidence for failure to comply with the wiretap authorization statute (Dkt. No. 106). The motion and subsequent notices of joinder are **DENIED**.

The third matter before the Court is a series of objections made by Defendant Fayad to Magistrate Judge Grand's orders regarding discovery. The Court reviews a magistrate judge's non-dispositive orders with a deferential lens; a district judge may modify or set aside an order if it is "clearly erroneous or contrary to law." Fed. R. Civ. P. 72(a); 28 U.S.C. § 636(b)(1)(A). After reviewing the motions addressed in Magistrate Judge Grand's Order (Dkt. No. 162) along with the associated objections, the Court **UPHOLDS** Magistrate Judge Grand's Order denying the motions.

IT IS ORDERED.

S/Victoria A. Roberts

Victoria A. Roberts

United States District Judge

Dated: January 27, 2016

The undersigned certifies that a copy of this document was served on the attorneys of record by electronic means or U.S. Mail on January 27, 2016.

s/Linda Vertriest

Deputy Clerk